

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA §
v. § CRIMINAL NO. 18-CR-00115
§
RODOLFO "RUDY" DELGADO §

DEFENDANT'S MOTION TO PERMIT WRITTEN WAIVER OF ARRAIGNMENT

NOW COMES Defendant Rodolfo Delgado, by and through undersigned counsel, and requests that the Court permit Defendant to submit a written waiver of arraignment in lieu of personal appearance. In that regard, Defendant provides this Court with the following written waiver of arraignment. For the reasons outlined below, Defendant and counsel request that the Court accept this written waiver in lieu of personal appearance for arraignment on the third superseding indictment filed on November 15, 2018. *See* Docket No. 68. Undersigned counsel conferred with DOJ Trial Attorney Peter Nothstein regarding the third superseding indictment and the scheduled arraignment hearing, and Mr. Nothstein indicated that the Government does not oppose a written waiver in lieu of Defendant's personal appearance.

Defendant and undersigned counsel hereby acknowledge the following:

- (1) Defendant has received a copy of the third superseding indictment in this case and consulted fully with undersigned counsel relative to the matters in such indictment. Defendant understands the nature and substance of the charges contained therein, the maximum penalties applicable thereto, and his constitutional rights.
- (2) Defendant understands that he has the right to appear personally with his attorney before a judge for arraignment in open court on the accusations contained in the third

superseding indictment. Defendant further understands that, absent the present written waiver, he will be arraigned in open court at the time and date designated.

- (3) Defendant, having conferred with his attorney in this regard, hereby waives personal appearance with his attorney at the arraignment of this case and the reading of the third superseding indictment, and tenders his plea of Not Guilty through this written document. Defendant understands that the court's entry of his plea will conclude the arraignment in this case.
- (4) Defendant understands that he has a right to a minimum period of time prior to trial so that trial shall not commence less than thirty (30) days from the date on which the defendant first appears through counsel.
- (5) Defendant is a licensed attorney in the State of Texas and was a Texas state judge for several decades, and therefore Defendant fully understands the nature of the charges and the consequences of a written waiver of arraignment and a finding of guilt on any of the counts in the third superseding indictment.
- (6) Undersigned counsel discussed with Government counsel the filing of the third superseding indictment, and the Government's position as to a waiver of arraignment. As noted above, Mr. Nothstein, attorney for the Government, expressed that the Government has no opposition to a waiver of arraignment in lieu of personal appearance.
- (7) Defendant has fully complied with all conditions of pretrial release, and both he and his counsel reside over 150 miles from Houston.

For all of these reasons, Defendant respectfully requests that this signed written waiver of arraignment be accepted by the Court in lieu of Defendant's personal appearance.

Date: November 21, 2018


Rodolfo Delgado - Defendant

/s/ Michael McCrum

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Certificate of Services

I hereby certify that a copy of the above and foregoing document has been filed electronically, on this day 25th day of November 2018, and a copy sent to the United States Attorney's Office through the court's electronic filing system.

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RODOLFO "RUDY" DELGADO

§

ORDER

On this _____ day of _____, 2018, came on to be heard the Defendant's Motion to Permit Waiver of Arraignment in the above cause. After due consideration of same, and the Court being satisfied that the Court's acceptance of written waiver in lieu of Defendant's personal appearance at an arraignment hearing will cause no harm to the rights of the Defendant, the same is hereby **GRANTED**, and it is therefore, **ORDERED**, **ADJUDGED AND DECREED** that said Waiver of Arraignment is accepted by the Court, and that it is not necessary for Defendant to appear for arraignment in the instant case.

Signed and Entered this _____ day of _____, 2018.

UNITED STATES MAGISTRATE JUDGE